

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

MUBARAK A. MUHAMMAD,

Petitioner,

v.

**CIVIL ACTION NO. 1:05CV32
(Judge Keeley)**

KEVIN J. WENDT, Warden,

Respondent.

REPORT AND RECOMMENDATION

This matter is pending before me for report and recommendation pursuant to LR PL P 83.09. On February 23, 2005, the *pro se* petitioner filed a Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. §2241. On February 24, 2005, the Court issued a Notice advising the petitioner to pay the \$5.00 filing fee or complete an application to proceed *In Forma Pauperis*. He was warned that the failure to pay the filing fee or complete the forms to proceed *In Forma Pauperis* within 30 days of the file date of the Notice may result in the dismissal of his case without prejudice.

The petitioner has not responded to the Court's February 24, 2005 Notice. Consequently, the undersigned recommends that the petitioner's §2241 petition be dismissed without prejudice.

Any party may file within ten (10) days after being served with a copy of this Recommendation, with the Clerk of the Court written objections identifying the portions of the Recommendation to which objections are made, and the basis for such objections. A copy of such objections should also be submitted to the Honorable Irene M. Keeley, United States District Judge. Failure to timely file objections to the Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Recommendation. 28 U.S.C.

§636(b)(1); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); Thomas v. Arn, 474 U.S. 140 (1985).

The Clerk of the Court is directed to mail a copy of this Report and Recommendation to the *pro se* petitioner.

DATED: May 4, 2005

/s John S. Kaull

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE